

**REMARKS**

Reconsideration of the above identified patent application is hereby respectfully requested in view of the foregoing amendments and following remarks. Claims 16 and 24-32 have been canceled and claims 1-10, 15, 17, 20-22 have been amended. Claims 1-15 and 17-23 remain in the case.

The applicant appreciates the review by Examiner Chandra Harris.

1-4. Claims 1-32 were rejected under 35 USC 101 as being directed to non-statutory subject matter.

In summary, the Examiner asserts that there is no structure but only a series of questions and related software, and that the claims themselves are indefinite since structure is absent, (Office Action items 1 and 2; claims 1-23), and that the claims (as recited, but not the invention) provide no practical utility. The Examiner also asserts that a lack of assuredness and predictability implicit in a measurement of empathy is nebulous and that therefore, the claimed invention is not tangible.

Office action item 3 rejects claims 24-28 and the Examiner asserts that for a claim to "pass muster" (nicely worded), the invention must either use or advance the technological arts. The Examiner further asserts that these steps could be performed in the mind or by pencil and paper, and that the limitations only constitute an idea of how to determine empathy. The claims, according to the Examiner, fail to produce a tangible result.

Office action item 4 rejects remaining claims 29-32 for similar reason as applied to the recited method steps.

Claims 24-32 (the method claims) have been canceled.

The base claims 1 and 3 have been amended to include structure necessary to accomplish the claimed functions, and also to provide a concrete result, thereby providing a tangible and especially useful result and also using current technologies (although this latter basis for rejection was cited only with regard to certain of the now canceled claims).

Before an explanation of the amended claims is presented, the applicants respectfully differ with regard to certain of the statements by the Examiner.

It is well known that a detriment to intimate relationship is an absence of empathy or understanding between parties. One person simply doesn't understand one or more areas of life that are important to his or her partner. This lack of understanding causes the person to behave, from time to time, in ways that irritate or frustrate their partner, thereby producing pain and suffering in the relationship. The partner wrongly concludes that the person simply does not care or respect their needs and preferences.

But what is really occurring and the root of their discord is that the person is "unaware" of certain of the strong or important core needs and preferences of their partner. The specification well addresses some of these areas. There are many key areas in which a lack of understanding can cause pain and suffering, for example, religious beliefs, core values concerning money, the raising of children, sexual preferences, and many of the topics the questions themselves address and appertain to. Up until now, there has been no known system to discover where empathy is lacking.

It is a profound and wonderful realization that it is not the differences between two people that torment, but

rather the beliefs that arise when these differences are not discussed in an open and inquiring manner. When not discussed, people "bump" into each other by bumping into an expression of these differences. They injure each other and then they conclude that their partner's simply don't care. They relate believing that their partner "*should know better*", and when he or she doesn't behave in a manner that is empathetic (i.e., understanding) of the issues of the other, the false conclusion is inevitably drawn that the "hurt" or pain that is being experienced was deliberately inflicted. This belief is profoundly damaging to relationship, is insidious and unseen, and is generally ubiquitous. It is reasonable to expect that the Examiner has, from time to time, experienced this unfortunate relationship phenomenon with the most intimate of relationships, as have we all.

Clearly, a system and product for improving empathy and of reducing the suffering that comes from a misunderstanding of each other's core values, issues, and needs is perhaps one of the most useful products possible. There is nothing intangible about the result. The result, when the system and product are properly utilized, is greater harmony and less suffering in relationship.

The applicant strongly disagrees that the result is not tangible or measurable. The very system and product claimed provides a "processed" result, a resultant number that allows for a couple to determine their current level of empathy or understanding that they have for one another. Key areas that need further discussion (which is a valuable output) are identified by the resultant number which indicates a lack of mutual understanding and that resultant number is then communicated to the couple as the output of the product or system. The couple is then sufficiently informed as to where they do not well understand each other and are therefore able to initiate conversation to further probe and illuminate these areas.

It is expected that by use of the instant invention, differences in needs, issues, and core values will be "unearthed" that would not otherwise be revealed to the participants or, at the very least, would not so quickly or so easily be revealed.

It is not reasonable to expect that all of these unearthed differences will be negotiated until a middle ground type of compromise is reached. Such a concept would disregard the very essence of individuality. Fortunately, as mentioned above, it is not even necessary to resolve all of

the differences, nor is it even possible. This is because it is not a difference between two people that really causes the pain in relationship. Rather, pain is caused by an expectation or belief that is projected outward to the other person in which it is assumed by the first person that the other person feels differently (i.e., has a set of values, issues, core beliefs, etc. that match those of the first person doing the projection) than he or she really does about something and, therefore, that the other person is supposed to behave differently than he or she does. When the other person behaves in a way that doesn't match these unconsciously projected expectations, the result is that sadness, disappointment, and various other forms of pain occur.

When the observed behavior is inconsistent with a projected belief system, the person who has projected the belief system, rather than realize that this unconscious behavior has occurred, instead blames the other person for not caring enough. Once the differences are talked about, room can almost always be found whereby each person is given conscious permission by his or her partner to honor their unique innate differences. Within the bounds of this increasing space, two people grow in trust and intimacy.

Now, a behavior that previously caused pain and irritation is understood and in that understanding there is no pain.

The applicant sincerely inquires of the Examiner if this is not a good, worthwhile, and especially useful benefit? It has been measured by psychologists that about 90% of a person's happiness or misery in life is that person's personal assessment of the quality of their relationships with other people. An invention that can [dramatically] uplift the quality of a person's relationships with other people is, perhaps, one of the most useful and therefore utilitarian of all inventions.

It is truly believed by the applicants that increasing the level of empathy between two people can do more to increase their level of happiness than did the invention of the light bulb.

Additionally, the system does provide a way to measure empathy in an especially tangible way. The couple utilizes the invention and obtains a result, the claimed empathy index. They, over the course of time, further discuss and explore areas that have been identified by the invention as lacking in empathy. They then again utilize the system and, as expected, see an increase in their level of empathy, as

shown by a corresponding increase toward the better with their empathy index (i.e., a moving closer toward each other in mutual understanding of one-another as reflected by a lowering of the differences between their understanding of one another. This results in a proportionately lower index number.).

Not only do they, as a couple, have the concrete proof of a change for the better in each of their measured empathy indexes, but they also have their moment by moment interactions that increasingly reflect their increased understanding of one-another and also their increased tolerance for their differences, as well. This is a measurable movement leading the participants toward greater peace and harmony, with greater satisfaction in relationship being an ultimate result.

The empathy index number is a concrete, tangible, predictable number that occurs as a result of a comparison of the responses. Different areas of strong empathy, or lack thereof, will combine to reflect a particular "overall number". That number is indicative of the couple's overall empathy level for one another. Whenever the same number occurs, regardless of the people using the system, it can be assured that a similar level of empathy exists, on average,

between the two people. The empathy index for different topics (i.e., sexual, money, child raising, whatever) may be different, but in general they couple know each other views similarly well.

But even more so, for a result to be tangible the output does not have to be so predictable where a particular number (empathy index) for one person means exactly the same thing for another person. As Einstein has well shown, we live in a relative world where the only absolute is the speed of light. It is not realistic to expect an "absolute" empathy index number anymore than it is realistic or reasonable to expect any other absolute in nature. Even the rate of passage of time is a variable.

An empathy index is, like all things, also a relative indicator. One couple, because they are simply raised or inherently more tolerant of individual differences, can have an enjoyable relationship with a particular empathy index number whereas another couple that shares the same empathy index number might find that they live with incessant complaint and bickering. To illustrate the value of even a relative result, let us assume that each couple uses the system, identifies areas of misunderstanding, re-uses the system and, hopefully finds, that they have grown in mutual

understanding and, therefore, are able to relate even better (they now have a lower empathy index number). Let us assume that both couple's had the same original empathy index number and then later, they both receive same "improved" empathy index number.

The one consistently predictable result is that their understanding of one-another will improve. It has to for that is what the system measures. The first couple, which originally had an enjoyable relationship, may now find that they have a high-functioning and especially joyous relationship. The second couple, which originally bickered, may now find that they seldom bicker and have a far more enjoyable relationship. A proportional but relative shift toward the better will have occurred for each couple. An improved relationship is predictable whenever there is an improving empathy index number.

Another benefit of the instant invention is that people who simply should not be together because of vast and irreconcilable differences that appertain to essential core values, beliefs, and goals can unearth these differences in an easy and relatively painless way. It is expected that instead of the usual hurt followed by blame repetitive cycles that are bound to occur in such mismatched

relationships, that these people can more easily and far more quickly reach the inevitable decision that it is better for them to separate than continue injuring one-another, and to reach this decision from a calmer, far more objective and detached viewpoint after having had an open discussion of these differences as revealed by the claimed product and system. It is the instant invention that identifies these fundamental core differences for the participants.

We each have certain areas in life that are so important to use that they are not negotiable. For many people a minimum level of honesty or financial integrity is required, or a desire to either have or not have children, are but a few examples of common non-negotiable values. Better to discover them sooner and in less dramatic style than the way most incompatible couples discover their core differences.

Another unexpected benefit of the instant invention, as claimed, is that certain serious problems, so often placated and enabled rather than addressed, can be brought to the surface. Physical or emotional abuse is but one such example. Not only can the instant invention provide the benefit of revelation that this may be occurring but the

instant invention can even direct the affected people to resources for intervention and help.

Additionally, the instant invention utilizes several technologies. Data is acquired and a mathematical operation (comparison) is performed on the raw data. The raw data is of little use (advertisers can possibly use it for marketing of other products) for the purposes of the instant invention. The raw data is processed for each specific area (topic) to include a plurality of results (one for each relevant question). This compilation of related topic results is then averaged to provide a result, an empathy index number for that topic for each person. That number represents the empathy level that person has for the other participant for that topic. All of the individual topic results are themselves then averaged to provide an overall empathy index for that person which represents how well in total that person understands the other participant.

To obtain this result incorporates the sciences of data acquisition, data manipulation on the acquired data, and averaging of the results to produce a quotient. The system is new, the processing is new, and the result is new. A data base, internet access, and computer software, as now claimed, provide the system with a preferred use of current

technologies. This allows each participant to respond in an unbiased manner and at their own pace, without pressure from the other participant. Accordingly, the preferred embodiment also produces accurate and consistent results. An additional output is that each of several quotients (indexes) are related to a various topics. For example, the participant is told that his or her empathy index is high for, say sexual matters, which means that that participant well understands his or her partner's sexual needs, issues, and preferences for that particular topic. The participant is also told, for example, that his or her empathy index is low for, say religious matters, which means that that participant is largely unaware of the religious needs, issues, and preferences of his or her partner (other participant).

The instant invention provides a tool for couples to improve their understanding of one-another and therefore also to improve the quality of their relationship. It provides a product, a clear numeric result which is today's empathy index number, whether applied to a given topic or an overall average of all topics that were investigated. That number has value in general and it does when it is applied to specific groups or topics.

For the purpose of the instant claims, an assessment of a difference in empathy, (i.e., an empathy index) is a new element, not previously known. A brand new "product" is therefore provided by the instant claims. The base claims have been amended to include structure and tangible result. Reconsideration of remaining claims 1-15 and 17-23 is respectfully requested.

The method claims have been canceled and therefore all objections appertaining to them are overcome.

The prior art made of record and not relied upon that is considered pertinent to the applicant's disclosure has been acknowledged by the undersigned, but is deemed no more relevant than the applied references.

As all remaining claims 1-15 and 17-23 appear to be in condition of allowance, reconsideration thereof is respectfully requested, and a notice of allowance is courteously urged at the earliest time.

The applicant appreciates the opportunity to communicate by telephone with the Examiner if necessary. Please continue to direct all correspondence to the correspondence address and telephone as shown below.

Respectfully submitted,



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